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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,965	08/27/2003	Ryan David Fyffe	006910.2835	4682

5073 7590 12/22/2004

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EXAMINER	
SWARTHOUT, BRENT	
ART UNIT	**PAPER NUMBER**
2636	

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/648,965	FYFFE, RYAN DAVID	
	Examiner	Art Unit	
	Brent A Swarthout	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *20* is/are allowed.

6)☒ Claim(s) *1-3,5-12 and 14-19* is/are rejected.

7)☒ Claim(s) *4 and 13* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8-27-03,2-18-04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

a. Claims 1-3,5-8,10-12, 14-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kavoussi et al. (804) in view of Kavoussi et al. (353) and Kutosky.

Kavoussi (804) discloses a system for waking a person comprising giving off an aroma at a set time period, and upon the end of a snooze period, activating an audible alarm (col. 2, lines 23-68), except for specifically stating that an aroma is selected , or that the aroma is given off after snooze input is activated.

Kavoussi (353) discloses desirability of selecting what aroma is desired to wake a person using activating means 34, and fragrance storing means (col.2, line 58).

Kutosky discloses it is well-known in the art to activate an alarm at a set time, and after user activation of a snooze switch, activating a second alarm at a second set time (col. 1, lines 10-20).

It would have been obvious to one of ordinary skill in the art to utilize aroma selecting means and storing means as suggested by Kavoussi (353) in conjunction with an aroma alarm device as disclosed by

Kavoussi (804), in order to allow a user to be awakened by a preferred scent, and to allow a scent to be only released when desired.

Furthermore, choosing to activate a scent alarm after activation of a snooze switch as taught by Kutosky would have been obvious, since Kavoussi (804) has already established desirability of having both audible and aroma alarms activated in order, the use of an aroma alarm after an audible alarm instead of before it as suggested by Kavoussi (804) being an obvious matter of user preference, merely depending on whether a user preferred to smell an aroma and then be alerted, or to be alerted and then smell an aroma.

Regarding claims 2-3, Kutosky teaches use of processing means instead of analog circuit means.

Regarding claim 7, since Kavoussi (353) teaches use of a selector 34 to choose various aromas (col.2, lines 33-35).

2. Claim s 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kavoussi et al. (804) in view of Kavoussi et al.(353) , Kotosky and Loisch et al.

Loisch teaches an aroma alarm device whereby the aroma can be a pleasant aroma such as coffee or freshly baked food (col.1, lines 33-35).

It would have been obvious to utilize coffee or food aromas in conjunction with an aroma alarm as set forth by Kavoussi (804), Kavoussi (353) and Kutosky, in order that a user could have been awakened by a smell associated with breakfast to encourage them to awaken more quickly.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Le Pesant, Thayer and Hartford disclose aroma alarm devices.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brent Swarthout

Brent A Swarthout
Examiner
Art Unit 2636

BRENT A. SWARTHOUT
PRIMARY EXAMINER